MONTANA ADMINISTRATIVE REGISTER

2022 ISSUE NO. 20
OCTOBER 21, 2022
PAGES 2040-2063

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the adoption of New Rules I through XX, amendment of ARM 37.27.101, 37.27.102, 37.27.105, 37.27.106, 37.27.107, 37.27.115, 37.27.116, 37.27.120, 37.27.902, 37.88.101, 37.106.1411, 37.106.1413, 37.106.1415, 37.106.1420, 37.106.1425, 37.106.1430, 37.106.1432, 37.106.1435, 37.106.1440, 37.106.1450, 37.106.1452, 37.106.1454, 37.106.1460, 37.106.1470, 37.106.1475, 37.106.1480, and 37.106.1485, and repeal of ARM 37.27.108, 37.27.121, 37.27.136, 37.27.137, 37.27.138, 37.106.1401, 37.106.1462, 37.106.1482, 37.106.1487, and 37.106.1491 pertaining to state approval of substance use disorder programs, licensure of substance use disorder facilities, and the Behavioral Health and Developmental Disability Medicaid & Non-Medicaid Manuals	)	CORRECTED NOTICE OF ADOPTION, AMENDMENT, AND REPEAL

TO: All Concerned Persons

1. On August 5, 2022, the Department of Public Health and Human Services published MAR Notice No. 37-1010 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 1539 of the 2022 Montana Administrative Register, Issue Number 15. On September 23, 2022, the department published the notice of adoption, amendment, and repeal of the above-stated rules at page 1889 of the 2022 Montana Administrative Register, Issue Number 18. On October 7, 2022, the department published a corrected notice of the above-stated rules at page 2025 of the 2022 Montana Administrative Register, Issue Number 19.

2. Subsection numbering errors were found in both ARM 37.106.1454 and 37.106.1467 which require correction. ARM 37.106.1454(1) is missing subsection (r). ARM 37.106.1467(1) has two entries for subsection (c). A clerical error was found in ARM 37.106.1471(1), which was found to be missing subsection (e). The department intended to include subsection (e) in the adoption notice in response to COMMENT #81, but later noticed it was missing.

3. The rules, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

37.106.1454 CLIENT RECORD CONTENT REQUIREMENTS (1) through (1)(q) remain as adopted.

(s) remains as adopted, but is renumbered (r).

AUTH: 50-5-103, 53-24-208, MCA
IMP: 50-5-101, 50-5-103, 53-24-208, 53-24-209, 76-2-411, MCA

37.106.1467 FOOD SERVICE (1) through (1)(b) remain as adopted.

(c) food removed from the original container must be dated, labeled, and sealed;

~~(c)~~ (d) milk and other dairy products must be pasteurized;

(d) through (l) remain as adopted, but are renumbered (e) through (m).

(2) through (13) remain as adopted.

AUTH: 50-5-103, MCA
IMP: 50-5-103, MCA

37.106.1471 ASAM 3.1 CLINICALLY MANAGED LOW INTENSITY RESIDENTIAL (ADULT OR ADOLESCENT) SUBSTANCE USE DISORDER FACILITY (1) through (1)(b) remain as adopted.

(c) care managers in sufficient numbers to provide services to clients required by this chapter and in accordance with the clients' individualized treatment plans; ~~and~~

(d) rehabilitation aides in sufficient numbers to provide direct care support services as outlined in the clients' individualized treatment plans~~.~~; and

(e) on-site awake staffing whenever clients are present in the facility.

(2) through (4) remain as adopted.

AUTH: 50-5-103, MCA
IMP: 50-5-103, MCA

4. The replacement pages for this corrected notice were submitted to the Secretary of State.

/s/ FLINT MURFITT
Flint Murfitt
Rule Reviewer

/s/ CHARLES T. BRERETON
Charles T. Brereton, Director
Department of Public Health and Human Services

Certified to the Secretary of State October 11, 2022.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEES

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee

- Department of Agriculture
- Department of Commerce
- Department of Labor and Industry
- Department of Livestock
- Office of the State Auditor (Commissioner of Securities and Insurance)
- Office of Economic Development
- Division of Banking and Financial Institutions
- Alcoholic Beverage Control Division
- Cannabis Control Division

Education Interim Committee

- State Board of Education
- Board of Public Education
- Board of Regents of Higher Education
- Office of Public Instruction
- Montana Historical Society
- Montana State Library

Children, Families, Health, and Human Services Interim Committee

- Department of Public Health and Human Services

Law and Justice Interim Committee

- Department of Corrections
- Department of Justice

Energy and Telecommunications Interim Committee

- Department of Public Service Regulation.

Revenue Interim Committee

- Department of Revenue
- Montana Tax Appeal Board

State Administration and Veterans' Affairs Interim Committee

- Department of Administration
- Montana Public Employee Retirement Administration
- Board of Investments
- Department of Military Affairs
- Office of the Secretary of State
- Office of the Commissioner of Political Practices

Transportation Interim Committee

- Department of Transportation
- Motor Vehicle Division (Department of Justice)

Environmental Quality Council

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

Water Policy Interim Committee (where the primary concern is the quality or quantity of water)

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known Subject

1. Consult ARM Topical Index.
   Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2022. This table includes notices in which those rules adopted during the period April 29, 2022, through October 7, 2022, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 3c, 2022, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2022 Montana Administrative Register.

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in September 2022 appear. Potential vacancies from November 1, 2022 through November 30, 2022, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of October 1, 2022.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2022

Appointee	Appointed By	Succeeds	Appointment/End Date
Board of Funeral Service			
Mr. Jim Axelson	Governor	Reappointed	9/14/2022
Butte			7/1/2027
Qualifications (if required): Cemetery Company Rep			
Mr. Daniel McGrath	Governor	John Tarr	9/14/2022
Butte			7/1/2027
Qualifications (if required): Public Member			
Board of Nursing			
Ms. Alicia Beagles	Governor	Leesha Ford	9/14/2022
Great Falls			7/1/2026
Qualifications (if required): Registered Nurse			
Ms. Lee Ann Evatt	Governor	Darlene Schulz	9/14/2022
Fairfield			7/1/2026
Qualifications (if required): Licensed Practical Nurse			
Betsy Mancuso	Governor	Deborah Johnson	9/14/2022
Manhattan			7/1/2026
Qualifications (if required): Public Member			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2022

Appointee	Appointed By	Succeeds	Appointment/End Date
Board of Nursing Cont.			
Ms. Constance Neumann	Governor	Thomas Glover	9/14/2022
Kila			7/1/2026
Qualifications (if required): Public Member			
Board of Public Accountants			
Ms. Sara Ann Hamlen	Governor	Kathleen Vandyke	9/14/2022
White Sulphur Springs			7/1/2026
Qualifications (if required): Public Member			
Board of Real Estate Appraisers			
Mr. Matt Dalton	Governor	Peter Fontana	9/10/2022
Helena			3/31/2025
Qualifications (if required): Certified Real Estate Appraiser			
Mr. Michael McDonnell	Governor	George Luther	9/10/2022
Three Forks			3/31/2025
Qualifications (if required): Certified Real Estate Appraiser			
Board of Veterinary Medicine			
Mr. Greg Carlson	Governor	New	9/5/2022
Lewistown			8/1/2027
Qualifications (if required): Licensed Veterinary Technician			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2022

Appointee	Appointed By	Succeeds	Appointment/End Date
Community Service Commission			
Ms. Rebecca Harbage	Governor	Reappointed	9/14/2022
Helena			7/1/2025
Qualifications (if required): Agency Rep			
Ms. Kami Kirchberg	Governor	Heather Margolis	9/14/2022
Bozeman			7/1/2025
Qualifications (if required): National Service Program Experience			
Mr. Kevin Myhre	Governor	Reappointed	9/14/2022
Lewistown			7/1/2025
Qualifications (if required): Business Rep			
Mr. Don Wetzel	Governor	Reappointed	9/14/2022
Helena			7/1/2025
Qualifications (if required): OPI Rep			
Eastern Montana Elder Justice Council			
Ms. Jodi Berry	Governor	New	9/14/2022
Sidney			9/30/2023
Qualifications (if required): Experience in senior advocacy			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2022

Appointee	Appointed By	Succeeds	Appointment/End Date
Eastern Montana Elder Justice Council Cont.			
Ms. Margaret Gallagher	Governor	Reappointed	9/14/2022
Billings			9/30/2023
Qualifications (if required): Experience in law			
Mr. Mike Guy	Governor	New	9/14/2022
Billings			9/30/2023
Qualifications (if required): Experience in law enforcement			
Ms. Heather Handran	Governor	New	9/14/2022
Glendive			9/30/2023
Qualifications (if required): Experience in senior advocacy			
Mr. Brett Lapham	Governor	New	9/14/2022
Billings			9/30/2023
Qualifications (if required): Experience in tax and finance			
Mr. Chris McConnell	Governor	Reappointed	9/14/2022
Helena			9/30/2023
Qualifications (if required): Dept of Justice Representative			
Ms. Amy Schuett	Governor	New	9/14/2022
Billings			9/30/2023
Qualifications (if required): Experience in healthcare and senior services			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2022

Appointee	Appointed By	Succeeds	Appointment/End Date
Historical Preservation Review Board			
Mr. Christopher Averill	Governor	Marvin Keller	9/5/2022
East Helena			10/1/2026
Qualifications (if required): History Professional			
State Rehabilitation Council			
Mr. Wes Feist	Governor	Scott Eychner	9/14/2022
East Helena			10/1/2025
Qualifications (if required): SWIB Representative			
Ms. Kendra Joyce	Governor	New	9/14/2022
Laurel			10/1/2025
Qualifications (if required): Business, Industry, and/or Labor Organization Rep			
Mr. Doug McElroy	Governor	New	9/14/2022
Great Falls			10/1/2025
Qualifications (if required): Business, Industry, and/or Labor Organization Rep			
Ms. Corinne Moore	Governor	New	9/14/2022
Helena			10/1/2025
Qualifications (if required): Business, Industry, and/or Labor Organization Rep			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2022

Appointee	Appointed By	Succeeds	Appointment/End Date
State Workforce Innovation Board			
Mr. Dale Carpenter	Governor	Bill Collins	9/14/2022
Butte			7/1/2025
Qualifications (if required): Workforce Rep			
Mr. Shane Etzwiler	Governor	Jeaneen Campbell	9/14/2022
Great Falls			7/1/2025
Qualifications (if required): Business Rep			
Commissioner Mike McGinley	Governor	Reappointed	9/14/2022
Dillon			7/1/2025
Qualifications (if required): County Elected Official			
Ms. Deborah Poteet	Governor	Reappointed	9/14/2022
Missoula			7/1/2025
Qualifications (if required): Business Rep			
Ms. Amber Terry	Governor	Steve Nicholls	9/14/2022
Big Sandy			7/1/2025
Qualifications (if required): Business Rep			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2022

Appointee	Appointed By	Succeeds	Appointment/End Date
Tourism Advisory Council			
Mrs. Alicia Harvey	Governor	Reappointed	9/14/2022
Bozeman			7/1/2025
Qualifications (if required): Yellowstone Country Rep			
Ms. Joan Kronebusch	Governor	Lindzy Brunson	9/14/2022
Conrad			7/1/2025
Qualifications (if required): Central Montana Region Rep			
Ms. Sabre Moore	Governor	Reappointed	9/14/2022
Ekalaka			7/1/2025
Qualifications (if required): SEMT/Eastern Montana Region Rep			
Western Montana Elder Justice Council			
Ms. Kristin Anderson	Governor	New	9/14/2022
Missoula			9/30/2023
Qualifications (if required): Experience in healthcare			
Ms. Janice Hinze	Governor	New	9/14/2022
Missoula			9/30/2023
Qualifications (if required): Experience in senior advocacy			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2022

Appointee	Appointed By	Succeeds	Appointment/End Date
Western Montana Elder Justice Council Cont.			
Ms. Naomi Leisz	Governor	New	9/14/2022
Trout Creek			9/30/2023
Qualifications (if required): Experience in Law			
Ms. Kirsten Madsen	Governor	New	9/14/2022
Helena			9/30/2023
Qualifications (if required): CSI Office Representative			
Mel Tiensvold	Governor	New	9/14/2022
Victor			9/30/2023
Qualifications (if required): Experience in finance			

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2022 THROUGH NOVEMBER 30, 2022

Board/Current Position Holder	Appointed By	Term End

MONTANA ADMINISTRATIVE REGISTER

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CHRISTI JACOBSEN
SECRETARY OF STATE

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